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In re Application of :
DÖLL, Walter et al. :
Application No.: 10/552,974 :
PCT No.: PCT/AU04/00464 :
Int. Filing Date: 08 April 2004 : DECISION
Priority Date: 11 April 2003 :
Attorney's Docket No.: COCH-0162-US1 :
For: Power Management System :

This communication is issued in response to applicants' "Response To Notification of Abandonment" submitted on 20 February 2007. Applicants' submission has been treated as a petition under 37 CFR 1.181 requesting that the Notification of Abandonment (Form PCT/DO/EO/909), mailed 05 February 2007, be withdrawn. No petition fee is due.

BACKGROUND

On 08 April 2004, applicants filed international application PCT/AU04/00464, claiming a priority date of 11 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 October 2005.

On 11 October 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied, *inter alia*, by the requisite basic national fee.

On 07 June 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 28 June 2006 applicants purportedly filed a response to the Notification of Missing Requirements including, *inter alia*, an executed declaration and the surcharge for late filing of the declaration. Although the U.S. Patent and Trademark Office records indicate that the \$130 surcharge for late filing of the declaration was received on 28 June 2006, the Office does not have any record of the executed declaration.

On 05 February 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that because applicants have failed to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 07 June 2006, the instant application has been abandoned.

On 20 February 2007, applicants filed a response to the Notification of Abandonment including, copies of all papers that were purportedly filed with the Office on 28 June 2006. Specifically, applicants filed a copy of the stamped filing receipt card showing a receipt date of 28 June 2006, an executed declaration and, a supplemental application data sheet correcting the misspelled name of inventor Walter DOELL to Walter DÖLL.

DISCUSSION

The copy of the stamped filing receipt card showing a receipt date of 28 June 2006 is sufficient evidence that applicants have filed a proper response to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 07 June 2006. Specifically, an executed declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the declaration were submitted within the set time period.

MPEP §605.04(b) states that:

When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

Here, applicants filed a supplemental application data sheet on 28 June 2006 correcting the misspelled name of inventor Walter DOELL to Walter DÖLL. Therefore, the executed declaration initially filed on 28 June 2006, and later resubmitted on 20 February 2007 is in compliance with 37 CFR 1.497(a)-(b).

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 05 February 2007 is hereby withdrawn.

CONCLUSION

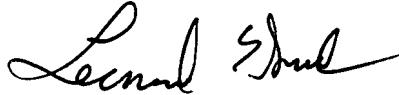
For the reasons stated above, the petition under 37 C.F.R. 1.181 is **GRANTED**.

The application will be given a date of 28 June 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 05 February 2007 is hereby WITHDRAWN.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



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